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## **OLR Bill Analysis**

### **HB 5599**

#### ***AN ACT CONCERNING PROVISIONAL BALLOTS FOR STATE AND MUNICIPAL OFFICES.***

#### **SUMMARY:**

This bill (1) extends the use of provisional ballots to state and municipal elections and primaries in the same circumstances as they are currently authorized for use in federal elections and primaries (see BACKGROUND) and (2) requires their use in place of challenged ballots.

The bill eliminates challenged ballots and the procedures for casting and counting them, replacing them with provisional ballots. However, it retains the right of (1) individuals and appointed polling place challengers to challenge voters and (2) challenged voters to request a ballot and vote.

The bill transfers, from town clerks to registrars of voters, certain election duties concerning provisional ballots. It also makes conforming and technical changes.

**EFFECTIVE DATE:** Upon passage, except a technical and conforming change is effective both upon passage and on January 1, 2014. The latter amends a statute that is not effective until 2014 (see § 10).

#### **WHEN PROVISIONAL BALLOTS MAY BE USED**

The bill allows an individual to apply for and receive a provisional ballot to vote for state or municipal office candidates in the same circumstances that he or she may currently apply for and receive one for federal office candidates. That is, when he or she:

1. appears at the polling place claiming to be eligible to vote but his or her name does not appear on the official registry list and the

registrars determine that the name cannot be immediately restored or transferred from another polling place,

2. is the subject of a challenge and the moderator decides he or she is not eligible to vote, or
3. registered by mail without the necessary identification and appears at a polling place or applies for an absentee ballot for the first time after registering without proper identification.

The application process, including the required written statement attesting to voting eligibility, is the same (see BACKGROUND).

If a poll worker denies an individual the opportunity to cast a regular ballot for any reason for which a provisional ballot may be used, the bill also requires a registrar or his or her designee to instead offer that individual a provisional ballot.

#### **AUTHENTICATING AND COUNTING**

The registrars have six days after a primary or general election to authenticate the information on each provisional ballot. The ballots are kept separate and counted after the registrars verify the eligibility of voters who used them. Under current law, challenged ballots are kept separate and counted only if an election is contested.

#### **FORMAT AND PRINTING**

Currently, the secretary of the state must prescribe the provisional ballot's format to be the same as the regular ballot, unless she decides to use the overseas ballot format. The bill retains the regular ballot format as the default but instead authorizes her to use the absentee, rather than the overseas, ballot format.

The bill eliminates the requirement that the secretary provide towns with provisional ballots. Instead, towns must print these ballots as they currently print regular and absentee ballots.

The bill also eliminates a requirement that town clerks and registrars of voters agree to an appropriate number of provisional

ballot packets for each voting district. Instead, registrars alone must make that determination. Similarly, registrars, rather than town clerks, must provide moderators with provisional ballot packets on the night before a primary or election for municipal, state, or federal office.

## **INSTRUCTIONS AND OTHER INFORMATION**

Current law requires the secretary to prescribe, and town clerks to provide, certain information for polling places during an election for federal office. The bill transfers the clerks' responsibility to the registrars of voters and extends it to cover primaries and elections for municipal and state offices. These responsibilities include providing instructions on how to cast a provisional ballot, instructions for mail-in registrants and first-time voters, and voting rights information.

## **BACKGROUND**

### ***Provisional Ballots for Federal Office Candidates***

To vote by provisional ballot, an individual must fill out an application under penalty of false statement attesting to his or her eligibility and current standing as an elector in the town where the polling place is located. The application includes a field for address, which helps the registrars verify the person's identity, and requires an attestation that the person has not yet voted in the present election.

### ***Election Day Registration***

Beginning January 1, 2014, Election Day Registration (EDR) goes into effect. Thus, certain individuals who would vote by provisional ballot (or by challenged ballot under current law) may instead cast a regular ballot under EDR.

Under EDR, any individual can register and vote in person on Election Day (i.e., the day of a regular state or municipal election) if he or she meets the eligibility requirements for voting in this state and (1) is not already an elector or (2) registered in one municipality but wants to change his or her registration because he or she currently resides in another municipality.

By law, a person is eligible to register and vote if he or she is (1) a

U.S. citizen, (2) age 18 or older, and (3) a bona fide resident of the municipality in which he or she applies for admission as an elector. Mentally incompetent people cannot be admitted as electors, and people convicted of a felony and committed to the custody of the commissioner of correction forfeit their electoral rights while incarcerated.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 9 Nay 4 (03/04/2013)